

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**Jan 23, 2012**

GREGORY C. LANGHAM, CLERK

Civil Action No. 12-cv-00169  
(To be supplied by the court)

ROY ALBERT KAHN, Plaintiff,

v.

United STATES OF AMERICA,

\_\_\_\_\_,

\_\_\_\_\_,

\_\_\_\_\_,

\_\_\_\_\_,

\_\_\_\_\_,

\_\_\_\_\_,

\_\_\_\_\_, Defendant(s).

(List each named defendant on a separate line.)

\_\_\_\_\_  
**PRISONER COMPLAINT**  
\_\_\_\_\_

**A. PARTIES**

1. Roy Albert Kahn #69869-004 USP Florence High  
(Plaintiff's name, prisoner identification number, and complete mailing address)  
P.O. Box 7000, Florence, Co 81226-7000

2. United STATES OF America  
(Name, title, and address of first defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? ☐ Yes ☒ No (CHECK ONE). Briefly explain your answer:

3. \_\_\_\_\_  
(Name, title, and address of second defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? ☐ Yes ☐ No (CHECK ONE). Briefly explain your answer:

4. \_\_\_\_\_  
(Name, title, and address of third defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? ☐ Yes ☐ No (CHECK ONE). Briefly explain your answer:

(If you are suing more than three defendants, use extra paper to provide the information requested above for each additional defendant. The information about additional defendants should be labeled "A. PARTIES.")

## B. JURISDICTION

1. I assert jurisdiction over my civil rights claim(s) pursuant to: (check one if applicable)

\_\_\_ 28 U.S.C. § 1343 and 42 U.S.C. § 1983 (state prisoners)

\_\_\_ 28 U.S.C. § 1331 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) (federal prisoners)

2. I assert jurisdiction pursuant to the following additional or alternative statutes (if any):

5 USC 552(a) FOIA/Privacy Act

## C. NATURE OF THE CASE

**BRIEFLY** state the background of your case. If more space is needed to describe the nature of the case, use extra paper to complete this section. The additional allegations regarding the nature of the case should be labeled "C. NATURE OF THE CASE."

This is a petition For the Release of FOI/PA documents that were requested by plaintiff on July 1, 2011. Requesting the release of documents in the custody and control of the U.S. Dept. of Justice, Federal Bureau of Prisons. Pertaining to any documents in BOP Custody in relation to plaintiff's SIS investigation which commenced on or about May 19, 2011, at Florence, USP. And any other documents relating to this request in BOP custody/records.

(Rev. 1/30/07)

## D. CAUSE OF ACTION

1. CLAIM ONE: "PLAINTIFF'S RIGHT TO THE RELEASE/DISCLOSURE OF FOI/PA DOCUMENTS PURSUANT TO 5 U.S.C. 552(a), HAS BEEN VIOLATED BY RESPONDENT. DUE TO THERE FAILURE TO RELEASE THE DOCUMENTS AND/OR ANSWER PLAINTIFF'S FOI/PA REQUEST."

SUPPORTING FACTS: 1. ON MAY 19, 2011 AT APPROXIMATELY 8:00 A.M.. PLAINTIFF AND HIS CELLMATE NADEL, WARREN WERE AWAKENED WHILE IN BED IN CELL E/A #118 BY SIA BROWN, SIA TECH. VANNICK, AND FOUR OTHER CORRECTIONAL OFFICERS OF IDENTITIES UNKNOWN.

2. PLAINTIFF AND HIS CELLMATE WERE ESCORTED BY FOUR (UNKNOWN IDENTITIES) OFFICERS IN HANDCUFFS, AND DRESSED ONLY IN BOXER SHORTS, AND SLIPPERS TO THE SPECIAL HOUSING UNIT.

3. PLAINTIFF WAS PLACED UNDER "INVESTIGATION", AND GIVEN A "LOCK-UP ORDER".

4. On July 1, 2011, the Federal Bureau of Prisons, North Central Regional office acknowledged receipt of plaintiff's FOI/PA request, and assigned a request number, # 11-08184. (EXHIBIT "A").

5. Plaintiff specifically requested all documents in Bop Custody pertaining to the SIS investigation at Florence, USP that commenced on or about May 19, 2011 as stated herein.

6. Respondent stated in there July 1, 2011 acknowledgment letter to plaintiff that there Request "must be searched for and collected from a field office".

7. As of the date of this complaint. the Respondent has failed to answer plaintiff's FOI/PA request. Over 180 days have elapsed (since July 1, 2011) since the 20 days due to respond, pursuant to 5 USC 552(a)(6)(B).

3. Claim Three: \_\_\_\_\_

Supporting Facts:

### E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ☐ Yes ☒ No (CHECK ONE). If your answer is "Yes," complete this section of the form. If you have filed more than one lawsuit in the past, use extra paper to provide the necessary information for each additional lawsuit. The information about additional lawsuits should be labeled "E. PREVIOUS LAWSUITS."

1. Name(s) of defendant(s) in prior lawsuit:

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2. Docket number and court name:

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3. Claims raised in prior lawsuit:

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4. Disposition of prior lawsuit (for example, is the prior lawsuit still pending? Was it dismissed?):

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5. If the prior lawsuit was dismissed, when was it dismissed and why?

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6. Result(s) of any appeal in the prior lawsuit:

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### F. ADMINISTRATIVE RELIEF

1. Is there a formal grievance procedure at the institution in which you are confined?

☒ Yes ☐ No (CHECK ONE).

2. Did you exhaust available administrative remedies? ☒ Yes ☐ No (CHECK ONE).

### G. REQUEST FOR RELIEF

State the relief you are requesting. If you need more space to complete this section, use extra paper. The additional requests for relief should be labeled "G. REQUEST FOR RELIEF."

*I am Requesting the release/disclosure of all documents in BOP Custody relating to my SIS investigation that commenced on May 19, 2011 at Florence, USP.*

### DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed on

1-17-2012  
(Date)

  
(Prisoner's Original Signature)



EXHIBIT "A"



**U.S. Department of Justice**  
**Federal Bureau of Prisons**

*North Central Regional Office*

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*Tower II, 8th Floor*  
*400 State Street*  
*Kansas City, KS 66101-2421*

July 1, 2011

Roy Kahn  
Register No. 69869-004  
United States Penitentiary  
Florence, CO 81226


RE: Freedom of Information Act/Privacy Act Request Number: 11-08184

Dear Requestor:

This acknowledges our receipt of your Freedom of Information Act (FOIA) request. Pursuant to Title 28 C.F.R. Part 16.3, the filing of a FOIA/PA request is considered an agreement by you to pay all applicable fees charged under § 16.11, up to \$25.00. Regulations that may be pertinent to your request may be found at Title 28 C.F.R. Parts 16 and 513.

We have examined your request and have determined that the documents responsive to your request must be searched for and collected from a field office. As a result, the amount of time necessary to respond to your request will increase. Once responsive documents have been collected from the field, we will process your request in the order that it was received.

Sincerely,

  
Richard W. Schott  
Regional Counsel

*5 USCS # 552(2)(6)(B)*  
*and 28 CFR # 16.5(c), 16.6(a)* *30 days*